

A Publication of Rural Development's Multi-Family Housing Program

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National Trade Group Aims to Form Maine State Chapter

By: Lauren Block, Director of Marketing and Membership Services, CARH

The Council for Affordable and Rural Housing (CARH), a national trade association for owners, managers, developers, and associates to the affordable rural housing industry, is interested in forming a state chapter in Maine. For over 20 years, CARH has been the nation's leading advocate fighting for legislative and regulatory issues that matter most to rural housing professionals. CARH works for increased funding for the Housing Programs, the Low Income Housing Tax Credit (LIHTC), for set-asides for rural areas, the creation of more preservation incentives, the reinstatement of owners' prepayment rights, expansion of the scope of the Section 538 program, for consistency of regulations from state to state, and much more!

CARH currently has over 350 member companies and 16 state chapters across the country. Starting a CARH chapter in Maine would bring many valuable benefits to the companies' properties in Maine. A CARH state chapter in Maine would provide valuable training for on-site managers. Courses include but are not limited to: Basic Apartment Management, Requirements of RD Instruction 1930-C, and the new Regulation 3560 when issued, Tenant Certifications, Eligibility and Waiting Lists, Fair Housing, and more! On-site managers of CARH-member companies also receive a quarterly newsletter, which is written specifically for managers of affordable rural housing communities. The newsletter includes articles on compliance and managerial tips that can help on-site personnel manage properties more efficiently and effectively. In addition, CARH members are the first in the industry to learn of changes to industry regulations and statutes through CARH's broadcast email and fax system. No other organization can get you industry news faster! CARH also offers in-depth discussions of industry trends through CARH News, the only newsletter for the industry, which has been praised by Rural Development officials, members of Congress, and other industry leaders. CARH's national meetings and conferences feature programs by top industry officials and leaders and serve as (continued at right)

the premier networking venues for the affordable rural housing industry.

CARH members also receive incredible savings for their properties through CARH's Preferred Buyers Program. We all know how tight the properties' budgets can be, so CARH has utilized its national buying power to negotiate affiliations with several national vendors that have agreed to offer CARH members deep discounts on their products and services. Thanks to this program even the smallest CARH member companies receive the same discounts that would otherwise only be available to large multi-state developers and managers. CARH's Preferred Buyer Program includes specialized property and casualty insurance plans from Acordia, deep discounts, and the highest tier of customer service from Home Depot Supply, The Sherwin-Williams Company, and Staples. Many CARH members have found that their savings through CARH's Preferred Buyers Program have covered the cost of their membership dues!

When a new chapter is ultimately formed, the membership dues will be established at an affordable level and will provide an opportunity to expand the training opportunities offered to onsite managers and management agency staff. To learn more about CARH, please visit the CARH website at www.carh.org. Please contact Lauren Block at the national CARH office at (703) 837-9001 or at lblock@carh.org for more information on the creation of the Maine CARH chapter. CARH looks forward to working with you and collaborating with the Rural Development State office to better serve the needs of the affordable rural housing industry in Maine!

Letter of Priority Entitlement (LOPE)

A 24-unit family housing complex was recently sold in a foreclosure sale in Orono. The new owner has removed the complex from the Section 515 RRH Program without restrictive-use provisions. As a result, there is a potential for residents being displaced. Rural Development has written to all the residents in (continued on page 2)

this complex to let them know we can provide them with a LOPE letter if they request it. The LOPE letters are good for 60 days.

To date, we have issued two LOPE letters as a result of this action. In accordance with Rural Development Instructions, applicants applying for housing who present a LOPE letter are to be placed at the top of the waiting list for the complex they are applying for. Please refer to RD Instruction 1930-C, Exhibit B, paragraph VI E (3) (e).

If you have any questions, please contact the Bangor Area Office at (207) 990-93676.

Notice of Termination

In a recent eviction case, a judge threw out the case on a technicality. RD Instruction 1930-C, Exhibit B XIV C requires that the tenant meet the condition or correct the violation stated in the notice of lease violation **by the date specified**. The word "immediately" was used instead of a specific date and the judge ruled the notice was not in accordance with regulations. Please make sure dates are used in notices of lease or occupancy agreement violation.

By law, these benefits will have no impact on an individual's eligibility or participation in Rural Development programs. The MMA states:

(continued at right)

"The availability of negotiated prices or transitional assistance under this section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program."

Neither the discounts nor the subsidy should be counted as income or otherwise taken into account either in determining whether an individual is eligible for, or the level of participation in, Rural Development programs."

Medicare Modernization Act and Rural Development Programs

Rural Development recently received correspondence from the National Office regarding the Medicare Prescription Drug, Improvement, and Modernization Act. (MMA) Specifically, the memo read as follows:

"On December 8, 2003, the President signed the Medicare Prescription Drug, Improvement, and Modernization Act which will offer Medicare beneficiaries access to subsidized drug coverage, along with other program improvements. One provision of the MMA implements a temporary drug discount card program. Medicare beneficiaries at or below 135 percent of the federal poverty level can qualify for \$600 in additional assistance for the remainder of 2004 and another \$600 in 2005.

Reporting Net Family Assets on the Tenant Certification

A key element of the certification process is the inclusion of **any and all** assets the tenant household possesses. There has been some confusion expressed regarding the instructions associated with Part III- Asset Income, on the Tenant Certification (shown here).

PART III ---- ASSET INCOME	
15. Net Family Assets (Note: If Line 15 is less than \$5,000, enter zero on Line 16.)	\$ _____
16. Imputed Income from Assets (Bank Passbook Savings Rate (*) X Line 15.)	\$ _____
17. Income from Assets	\$ _____

The "Note" which reads "If line 15 is less than \$5,000, enter zero on Line 16.)" does **NOT** mean that you are to enter zero on Line 15.

What you must do is:

1. Enter the total value of all assets on Line 15 regardless of the amount.
2. Enter the actual income attributable to these assets on Line 17
3. If line 15 is equal to \$5,000 or less, enter zero on Line 16, or
4. If line 15 is exceeds \$5,000, calculate the imputed from assets.

If you have any questions on how to do this, please contact Alice Kelley at 990-9179 or Rachel Henderson at 990-9164 in the Centralized Payment Center (CPC) for assistance.

Occupancy Policy and Guidelines

Following this story please find a guide called "Occupancy Policy and Guidelines" which we have prepared in an attempt to clarify the differences between Eligible Tenants, Surviving Household Members, Remaining Household Members, Grandfathered Households, and Formerly Eligible Tenants. We hope that the examples will be useful in clarifying the definition of each household.

The following has been compiled in an attempt to clarify the differences between occupancy eligible tenants, Surviving Household Members (SHM), Remaining Household Members, Grandfathered Households, and Formerly Eligible Tenants. We hope that the examples, which have been included, will be useful in clarifying the definition of each household.

The Rental Assistance program is one of the largest line items in Rural Development's budget. In an attempt to conserve this limited resource, it is important that management ensure each household meets the property's occupancy standards. Management is encouraged to counsel all households (including those Grandfathered and SHMs) that they might find it less expensive to live in a smaller apartment and that Rental Assistance might be saved. (See the articles that follow)

OCCUPANCY POLICY & GUIDELINES

1930-C, Exhibit B, VI, D, 2 (pages 39-44)

The objective of the occupancy policy and guidelines in Rural Development financed projects is to achieve utilization of subsidized space without overcrowding or providing more space than is needed by the number of people in the household.

Rural Development does not specify the number of persons who may live in MFH housing units of various sizes. The borrower must set reasonable occupancy standards which will assist as many people as possible without overcrowding the unit or the project and which will minimize vacancies.

Many properties have adopted the following Rural Development occupancy guidelines:

<u>Number of Bedrooms</u>	<u>Occupancy Range</u>	
	<u>Minimum</u>	<u>Maximum</u>
0	1	1
1	1	2
2	2	4
3	3	6
4	5	8

Management needs to review occupancy of units to determine if the property's occupancy standards are being met. If not, it needs to be determined if the household is "Grandfathered," (continued at right)

a surviving household member (SHM), or if the tenant no longer meets occupancy guidelines/standards and must move to an appropriate size unit, or have to vacate the property. Various circumstances will determine the status of the household.

GRANDFATHERED

1930-C, Exhibit B, VI, D, 2, j (page 43)

"A tenant who was determined eligible and allowed to occupy under regulations in effect prior to **OCTOBER 1, 1986**, who does not meet eligibility requirements regarding *income* or *occupancy policy* as prescribed in these regulations may be permitted continued occupancy in the same unit for the duration of their residency. This provision specifically refers to:

- (1) Elderly tenants of any income level who have occupied their unit, since before October 27, 1980.
- (2) *Tenants who were determined eligible before October 27, 1980, but did not meet income and occupancy requirements on that date. Examples are:*
 - i. Individual tenants occupying a unit with separate tenant certifications whose combined income on October 27, 1980, would disqualify joint tenancy.
 - ii. Tenant households whose composition did not meet the occupancy guidelines in paragraph VI, D, 2, c, 2 of 1930-C, Exhibit B.
- (3) Tenants who became income ineligible due to changes of income and shelter cost determination on October 1, 1986 . . . "

COMMENT: With regard to occupancy, if occupied prior to October 27, 1980, households do not have to meet current occupancy guidelines.

SURVIVING HOUSEHOLD MEMBER (SHM)

1930-C, Exhibit B, VI, D, 5, a (page 46).

"Surviving members of an elderly, disabled, and/or handicapped tenant's household may continue occupancy of the unit after the death of the original tenant, even though they may not meet the definition of an elderly, disabled or handicapped person stated in paragraph II of this exhibit, provided:

- (1) They are eligible occupants with respect to income and were *cotenant* of the household and have legal capacity to sign and assume the lease.
- (2) They occupied the unit with the original *tenant* at the time that the original tenant **died**, and
- (3) A surviving nonelderly *cotenant* shall not qualify for the elderly family adjustments to income."

NOTE: The National Office has provided verbal clarification regarding this instruction. It is their intent that this policy apply to the entire property, not to just a SHM's current unit. Therefore, if (continued on page 4)

a SHM wishes to move from one unit to another in a project, they may do so without losing their SHM status.

EXAMPLES:

1. Dan and Lisa occupy a 2-bedroom unit in an elderly complex. Dan is 65 and Lisa is 45 and they are tenant and co-tenant. Dan **passes away**. Lisa is now a SHM and is entitled to remain in the 2-bedroom unit.

If Lisa requests a transfer to a 1-bedroom unit or to a 2-bedroom ground floor unit (as a reasonable accommodation), her request can be granted without her losing her SHM status.
2. George and Beth occupy a 2-bedroom unit in an elderly complex. Both are 47; George is disabled. They are tenant and co-tenant. George **moves out** of the unit. Beth is not a SHM; therefore she is not entitled to remain in the unit nor in the elderly property.
3. Rebecca and her brother, Glenn, occupy a 2-bedroom unit in a family complex as tenant and co-tenant. Glenn is 47 years old and Rebecca is 45. Neither is handicapped nor disabled. Glenn **passes away**. Because this household was not an "Elderly Household," Rebecca does not become a SHM upon his death. As a single person in a 2-bedroom unit, she is now a "Formerly Eligible Tenant."
4. Rachel and Violet are friends (cousins/sisters) who occupy a 2 bedroom unit. Both are 21; Violet is disabled. They are tenant and co-tenant. Violet **passes away**. Rachel is a SHM (whether they were living in either a family or an elderly complex).
5. Linda and her mentally disabled son, Raymond, occupy a 2-bedroom unit in an elderly complex. Linda is 65; Ray is 25. Linda is the tenant. Ray is Linda's dependent (not a co-tenant) and is incapable of entering into a lease agreement. Linda **passes away**. Raymond is not a SHM because he was not a co-tenant of the household nor is he capable of entering into a lease.
6. Bob and his wife, Kathy, occupy a 2-bedroom unit in an elderly complex. Both are 67 years old and are tenant and co-tenant. Bob **moves out** of their apartment. Kathy **passes away**. Bob is not a SHM because he was not occupying the unit at the time Kathy passed away.
7. Lewis and his 18 year old daughter, Sabrina, occupy a 2-bedroom unit in an elderly complex. Lewis is 50 and handicapped. Upon turning age 18, Sabrina became a co-tenant. Lewis decides to relocate and **moves out** of the apartment. Sabrina is not a SHM; therefore she is not entitled to remain in the unit nor in the elderly property. She is now a "Formerly Eligible Tenant."
8. Mike and Tammy occupy a 2-bedroom unit in an elderly complex. Mike is 87; Tammy is 86. They are tenant and co-tenant. Tammy falls and breaks her hip; goes to the hospital; then to a rehab center. Tammy's doctor predicts that after rehabilitation she will be able to return to the apartment. While Tammy is in the rehab center, Mike passes away. Because Tammy is expected to be able to return to the apartment and she is out of the apartment for a medical reason, she is a SHM (continued at right)

despite the fact that she was not physically occupying the unit at the time Mike died.

FORMERLY ELIGIBLE TENANTS

1930-C, Exhibit B, VI, D, 6 (page 47)

"Unless authorized by paragraph VI, D, 2, j" (Grandfathered households), "Formerly Eligible Tenants will be required to vacate their unit within 30 days or the end of the term of their lease agreement, whichever is longer. If, however, there is not an eligible applicant on the waiting list available for occupancy, the formerly eligible tenant may remain until there is an eligible tenant on the waiting list available to occupy the unit; at which time, the requirements for notice to vacate stated in paragraph VI 6 c of this exhibit will take effect. If vacating the unit in the time period described creates an undue hardship on the family, the Servicing Official may permit continued occupancy for a reasonable period of time. The following "formerly eligible" situations apply to this paragraph:"

a - Tenants who no longer meet Rural Development income eligibility requirements.

b - (refers to Labor Housing)

c - "Tenants who no longer meet the occupancy policy for the project. These tenants must agree in writing to move to a unit of appropriate size in the project when one becomes available, or when an appropriate sized unit does not exist in the project, vacate the project at the termination of their lease. However, the tenant may remain as an ineligible tenant if the unit is not overcrowded and there are no other applicants on the waiting list for the size of unit presently occupied."

EXAMPLES:

If there are eligible applicants on the waiting list:

1. Tenant, Betty, and her 24 year old daughter, Amie, live in a 2-bedroom unit. Amie is a full-time student. Amie graduates, is getting married, and plans to move-out of the unit and get an apartment. Betty would now be a "Formerly Eligible Tenant" and would be required to vacate the unit within 30 days or the end of the term of their lease agreement, whichever is longer. Vacate the unit means move to a 1-bedroom unit when one becomes available, or vacate the property (with proper notice). Betty must agree in writing to move to a unit of appropriate size when one becomes available.
2. Eric, Kelly, and their daughter Mary occupy a 2-bedroom unit in a family complex. Kelly is pregnant and due to deliver twins any day. Eric's mother is no longer able to live by herself and they have invited her to move in with them (with management's approval). Upon the addition of these three household members, this apartment becomes overcrowded with six people in a 2-bedroom unit. They are now classified as "Formerly Eligible Tenants" and must either transfer to an apartment of appropriate size or vacate the complex.

Note: All Rural Development Offices will be closed Monday, September 6, for Labor Day, and September 7, 8, and 9 for a Rural Development State Meeting. Offices will reopen September 10.

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